

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 26th day of February, 1992, the following order was made and entered:

The Committee on Legal Ethics of The
West Virginia State Bar, Complainant

vs.) No. 20860

Loudoun L. Thompson, a member of The
West Virginia State Bar, Respondent

On a former day, to-wit, February 24, 1992, came the complainant, the Committee on Legal Ethics of The West Virginia State Bar, by Sherri D. Goodman, its attorney, and also came the respondent, Loudoun L. Thompson, a member of The West Virginia State Bar, by John E. Busch, his attorney, and presented to the Court their joint motion in writing for leave to waive the filing of any further documents and oral argument scheduled for Tuesday, the 3rd day of March, 1992, for the entry of an order issuing a public reprimand.

Upon consideration whereof, the Court is of opinion to and doth hereby grant said motion. Accordingly, it is therefore adjudged and ordered that the respondent, Loudoun L. Thompson be, and he hereby is, publicly reprimanded. Justice Neely absent.

Service of a copy of this order upon the respondent by certified mail, return receipt requested, shall constitute sufficient notice of the contents hereof.

A True Copy

Attest: 
Clerk, Supreme Court of Appeals

BEFORE THE COMMITTEE ON LEGAL ETHICS
OF THE
WEST VIRGINIA STATE BAR

IN RE: ~~LOUDOUN L. THOMPSON, RESPONDENT~~
A member of The West Virginia
State Bar

I.D. No. 89-147

SUBCOMMITTEE FINDINGS OF FACT, CONCLUSIONS OF LAW AND
RECOMMENDATION OF DISCIPLINE

The West Virginia State Bar, by Sherri D. Goodman, and Loudoun L. Thompson, by John E. Busch, submitted to this Hearing Panel Subcommittee of the Committee on Legal Ethics stipulations of fact, law and discipline in lieu of an evidentiary hearing. These stipulations were limited to the facts necessary for resolution of the issues before the Committee and were not intended to be comprehensive. The Subcommittee finds that these stipulations are fair, and they serve the Committee's duty to insure the public of the integrity of the Bar. Therefore, the Subcommittee adopts the stipulations in full, as set forth below.

FINDINGS OF FACT

1. Loudoun L. Thompson ("Respondent" herein) is a licensed member of The West Virginia State Bar, practicing in Hampshire County, West Virginia, and is subject to the disciplinary jurisdiction of the Supreme Court of Appeals of West Virginia and its properly constituted Committee on Legal Ethics of The West Virginia State Bar.

2. Respondent performed legal services for Olen M. Buckley and Buckley's Distributing Company (the "Company") for a number of years, although Mr. Buckley also used the services of other

attorneys during the same time period. Mr. Buckley owned all of the stock in Buckley's Distributing Company.

3. Olen Buckley died in 1984. Respondent represented the Estate. His primary duty was to advise Retha Buckley, the widow of Olen Buckley, about matters concerning settlement of her late husband's estate.

4. On behalf of the Retha Buckley and the Company, Respondent prepared a one-year employment contract dated July 8, 1985, between the company, the Estate and other Buckley family members (on one side) and Roscoe B. Dean, a school teacher who took a leave of absence from his job to work as manager for the company, (on the other).

5. At the expiration of the one-year contract, Respondent prepared a 12-year employment contract between the same parties. Respondent billed the Estate 10 1/4 hours for his services with respect to this contract.

6. In April of 1986, Retha J. Buckley terminated Respondent's services as attorney for the Estate and the Company.

7. On January 28, 1988, the company's new lawyer, David Layva then of Avey & Steptoe, wrote Mr. Dean a letter terminating his employment.

8. Mr. Dean consulted with Respondent concerning the validity of the termination. Respondent advised him that the employment contract was valid.

9. Respondent thereafter undertook to represent Mr. Dean in his employment dispute with the Company, Retha Buckley and the children of Olen Buckley, although Respondent contends that he did

not discuss any compensation with Mr. Dean and did not agree to file suit for him.

10. Respondent wrote to Mr. Layva on behalf of Mr. Dean on January 29, 1988, indicating that his client had not violated the employment contract, which Respondent asserted was valid and enforceable. He received correspondence from Mr. Layva indicating a willingness to discuss the disputed issues with Respondent. Respondent retained Ralph W. Haines, also a Romney attorney, to act as co-counsel. They made a settlement demand of \$1,000,000 for the purpose of emphasizing the significant amounts in dispute and establishing a starting point for negotiations.

11. When Robert M. Steptoe, Jr., of Steptoe & Johnson, became involved in the matter on behalf of Buckley Distributing Company, he spoke with Respondent in a conference call with Mr. Layva on March 9, 1988. Mr. Steptoe stated that in view of the fact that Respondent had prepared the 12-year employment agreement as lawyer for the Company and the Buckley family and had received a fee for such representation, Respondent should withdraw from representing Mr. Dean because of the conflict of interest. Mr. Steptoe is the complainant herein.

12. Respondent contends that during the initial telephone conference, he offered to withdraw as counsel for Mr. Dean.

13. Mr. Layva would testify that Respondent did not offer to withdraw from his representation of Mr. Dean during the telephone conference. Mr. Steptoe and Mr. Layva are currently partners in Steptoe & Johnson.

14. Mr. Steptoe would testify as follows: Respondent told Mr. Layva and him that he would remain involved in the matter and

that he would let the Court decide the conflict issue. (Respondent contests said assertion.) Respondent stated he felt morally correct about the matter and did not know the legal aspects. He further stated that he would not do anything he should not do. Mr. Steptoe advised him to review the Code of Professional Responsibility. Respondent replied that he would talk to Mr. Dean and inquired whether Buckley Distributing Company wished to make a counter offer. (Respondent contests said assertion.)

15. Respondent contends that Mr. Steptoe was demanding, strident and very outspoken during the telephone conference concerning Respondent's involvement in the matter. Respondent was upset concerning the nature and tone of Mr. Steptoe's accusations of unethical conduct.

16. Respondent withdrew from his representation of Mr. Dean on or soon following the date of the telephone conference. Mr. Haines continued to represent Mr. Dean, and another lawyer was retained as co-counsel. Respondent states that after his withdrawal, he did not consult, discuss or participate in any manner as counsel in the dispute between Mr. Dean and Buckley Distributing Company.

17. Respondent states in mitigation that:

(a) He thought the Code of Professional Conduct only prohibited simultaneous representation of two clients with differing interests. His representation of the Buckley family interests ended two years earlier;

(b) This was an isolated instance of misconduct. He has had only one other ethics complaint filed against him, which was dismissed without a finding of misconduct.

(c) During his limited representation of Mr. Dean or after withdrawal as counsel, he did not have or use any confidential information learned during his representation of the Buckley Distributing Company.

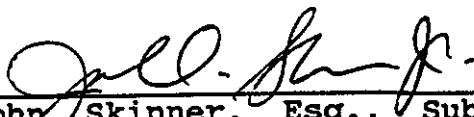
CONCLUSIONS OF LAW

18. By Respondent representing Mr. Dean in his employment contract dispute with Buckley's Distributing Company after having prepared Mr. Dean's employment contract on behalf of Buckley's Distributing Company, Respondent's activities violated DR 5-105(A) of the Code of Professional Responsibility, then in effect, and created an appearance of impropriety. DR 5-105(A) provided:

- (A) A lawyer shall decline proffered employment if the exercise of his independent professional judgment in behalf of a client will be or is likely to be adversely affected by the acceptance of the proffered employment, or if it would be likely to involve him in representing differing interests, except to the extent permitted in DR 5-105(C).

RECOMMENDED DISCIPLINE

19. The Hearing Panel Subcommittee recommends that Respondent receive a public reprimand from the Supreme Court of Appeals of West Virginia for said violation.



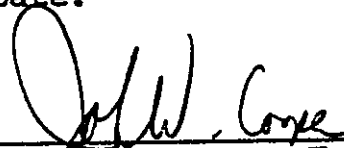
John Skinner, Esq., Subcommittee
Chair

Date: 8-26-91



Ms. Katharine B. Becker

Date: 10-10-91



John W. Cooper, Esq.

Date: 9-10-91

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